IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 18516 of 2004

Between:

K.Kistaiah, S/o Ramulu, aged 35 years, Conductor (E-280313)
APSRTC, Nagarkurnool Bus Depot, Mahabubnagar District

..... PETITIONER

AND

The Depot Manager, APSRTC Nagarkurnool Bus Depot,

Mahabubnagar District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondent in imposing the punishment of deferment of annual increment next fall for a period of 18 months which shall have effect on postponing the future increments as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Hon'ble Court and also apex court by setting aside the final order No.02/62(3)/99-NGKL dated 13-3-1999 of the respondent herein and consequently direct the respondent to add the deferred increment and pay the arrears.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent: MR.Y.VIVEKANANDA SWAMY (SC FOR APSRTC)

The Court made the following:

-

-

-

-

-

-

-

-

ORDER:

-

The petitioner is working as a Conductor in the respondent Corporation. He was charged for an irregularity in collecting fare and issuing tickets to the passengers. He submitted his explanation. The respondent passed an order on 13.03.1999 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of 18 (eighteen) months, which shall have effect on future increments of the petitioner.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondent is illegal and to direct the respondent to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of 18 (eighteen) months with cumulative effect, imposed by the respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of 18 (eighteen) months without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on

notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Nagarkurnool Bus Depot, Mahabubnagar District

2. Two CD copies.